IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 1545 OF 2005.

M/s.Secure Processing and
Pat Works. ... Appellant.

Versus.

Maruti Mahadeo Chavan. ... Respondent.

Shri Madhav Jamdar for the Appellant.

Shri S.S.Kulkarni for the Respondent.

CORAM : ABHAY S.OKA, J.

DATED : 13th April, 2006.

P.C.:

1. Admit. The learned Advocate for the Respondent waives service. Taken up for hearing forthwith. It is not in dispute that the Appellant has deposited a sum of Rs.12,000/- in the trial Court and a sum of Rs.15,000/- in this Court.

2. The Appellant is the Defendant in a summary suit filed by the Respondent. By order dated 14th July 2003 conditional leave to defend was granted in favour of the Appellant. The condition imposed for grant of leave to defend was that the Appellant must furnish security to the extent of Rs.80,500/- within one month from the date of passing of the order. As the said security was not furnished, decree came to be passed.

3. Shri Kulkarni appearing for the Respondent/ Plaintiff did not dispute that the Appellant has deposited a total sum of Rs.27,000/-. He fairly stated that if the Appellant furnishes security to the extent of Rs.53,500/- to the satisfaction of the trial Court, the Appellant may be permitted to defend the suit by

filing written statement. He submitted that before accepting the security, the trial Court may be directed to hear the Respondent/Plaintiff.

4. In view of this statement, the Appeal is disposed of by the following order:

i) The impugned Judgments and decrees are set aside and Summary Suit No.67 of 2001 is restored to the file subject to condition of the Appellant furnishing security in the sum of Rs.53,500/- to the satisfaction of the trial Court on or before 12th June 2006. The learned trial Judge will accept the security produced by the Appellant only after hearing the Respondent.

ii) If the security is furnished within the stipulated time, the Appellant will be permitted to file written statement within a period of four weeks from 12th June 2006. It is made clear that no further time will be granted to the Appellant to file written statement under any circumstances.

iii) If the Appellant fails to furnish security within the stipulated time, the decree passed trial Court and confirmed by the Appellate Court will stand and the Respondent will be permitted to withdraw the amounts which are deposited by the Appellant.

iv) The Registrar (Judicial-I) is directed to transfer the sum of Rs.15,000/- deposited by the Appellant to the trial Court.

v) If compliance is made by the Appellant by furnishing security within the stipulated time, the trial Court will invest the total amount of Rs.27,000/- in a fixed deposit with any nationalised bank for a period of one year.

vi) The trial Court will decide the suit as expeditiously as possible and preferably by the end of February 2007.

vii) All contentions of the parties on merits of the suit are kept open.

viii) The parties are directed to appear before the trial Court on 28th April 2006 at 11 a.m. along with an authenticated copy of this order.

ix) The parties and the concerned Court to act on an authenticated copy of this order.

Judge.